

REMARKS/ARGUMENTS

Favorable reconsideration of this application, in view of the following comments and as presently amended, is respectfully requested.

Claims 1, 6, 8, 10-15, 17, 20, 21, and 23-26 are pending in this application. Claims 11, 24, 25, and 26 are amended by the present response.

Claims 1, 6, 8, 10-15, 17, 20, 21, and 23-26 were rejected under 35 U.S.C. §103(a) as unpatentable over U.S. Patent 5,305,199 to LoBiondo et al. (herein "LoBiondo").

It is initially noted that Claim 11 is amended to correct a minor typographical error. No new matter is added.

In light of the outstanding rejection, Claims 24-26 are amended consistent with the specification to further distinguish the claims over the cited references. No new matter is added.

Briefly recapitulating, a consumable item system as in Claim 1 includes a consumable item apparatus, a consumable item supplying section, a first sensor to detect an item needing replenishment, a second sensor to detect a type or size of the corresponding consumable item needing replenishment, a replenishment signal generating device, a counter to count a duration of time period that the first sensor detects an item needing replenishment, with an adjustable time period set at the user side, a order data transmitting device, and a delivery data transmitting device in the consumable item supplying section.

Addressing now the rejection of Claims 1, 6, 8, and 10-15 under 35 U.S.C. §103(a) as unpatentable over LoBiondo, that rejection is respectfully traversed.

The consumable item system as in Claim 1 includes "a second sensor configured to detect one of a type and a size of the corresponding consumable item needing replenishment" and "a counter configured to count a duration of time period that said detector detects said

signal, said time period being adjustably set at the user side.” Such features clearly distinguish the claims over the applied art.

As noted in the outstanding Office Action, LoBiondo fails to disclose a user adjustable counter that is designed to monitor the time period that a detector detects the alert signal that is generated signaling a consumable item needs replenished.¹ Additionally, LoBiondo fails to disclose or suggest a second sensor configured to detect one of a size and type of a consumable item.

The features of independent Claim 1 do not merely amount to providing an automatic means to replace a manual activity which accomplishes the same result, as stated in the outstanding Office Action.² The “counter configured to count a duration of time period that said detector detects said signal, said time period being adjustably set at the user side,” of Claim 1 serves to detect and eliminate false alert signals that may result in over ordering or an operator having to manually respond and repeatedly deal with a false alert signal.

In a non-limiting example the time period of the counter could be adjusted by the user according to the usage condition of various consumable items to best avoid false alert signals that would not be detected in the device of LoBiondo.

LoBiondo does not disclose or suggest features that serve to detect and eliminate false alert signals that may result in over ordering or an operator having to manually respond and repeatedly deal with the false alert signal. LoBiondo also fails to disclose or suggest features that detect one of a size and type of the consumable item needing replenished. Therefore, LoBiondo does not disclose or suggest the method for keeping consumable items as recited in Claim 1.

The outstanding Office Action appears to take Official Notice that “it would have been obvious to a person of ordinary skill in the art at the time of the invention to further

¹ Office Action mailed November 12, 2003, page 3, lines 11-15.

² Office Action mailed November 12, 2003, page 4, lines 4-10.

automate the ordering process by monitoring the replenishment alert signal.”³ However, no reference or evidence was cited in support of this assertion, and to the extent that basis for the rejection is based on Official Notice applicants traverse that Official Notice and require that prior art be cited to support that position.

Similarly with reference to Claim 10 which recites, “the consumable item system as in Claim 1, wherein said communication device includes a wireless system.” The outstanding Office Action appears to take Official Notice that it would have been obvious to one ordinarily skilled in the art conduct communication via a wireless network,⁴ and again applicants traverse that position and require that prior art be cited to support that position.

As set forth in MPEP § 2143, to establish a prima facie case of obviousness three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the combination and the reasonable expectation of success must both be found in the prior art, not in applicants’ disclosure.

Accordingly, it is respectfully requested that a reference be provided to support these assertions or that this rejection be withdrawn.

Claim 12 which depends from Claim 1 includes that the “order data is reset when said signal disappears before said time period has elapsed.” This feature serves to detect and eliminate false alert signals that may result in over ordering or an operator having to manually respond and repeatedly deal with the false alert signal. LoBiondo does not disclose or suggest features that serve to detect and eliminate false alert signals that may result in over

³ Office Action mailed November 12, 2003, page 4, lines 4-6.

⁴ Office Action mailed November 12, 2003, page 4, lines 11-16.

ordering or an operator having to manually respond and repeatedly deal with the false alert signal. Therefore, LoBiondo does not disclose or suggest the method for keeping consumable items as recited in Claim 12.

In light of the above comments Claim 1, and Claims 6, 8, and 10-15 which depend from Claim 1, are believed to be clearly patentably distinguishing over the cited art, and to be allowable.

Addressing now the rejection of Claims 17 and 20 under 35 U.S.C. §103(a) as unpatentable over LoBiondo, that rejection is respectfully traversed.

Similar to Claim 1, the method for keeping consumable items as in Claim 17 includes “detecting one of a type and size of the corresponding consumable item needing replenishment,” and “counting a duration of time period that the generated signal is detected, said time period being adjustably set at the user side.”

The method for keeping consumable items as in Claim 17 serves to detect and eliminate false alert signals that may result in over ordering or an operator having to manually respond and repeatedly deal with a false alert signal. LoBiondo fails to disclose or suggest sensors that detect one of a size and type of a consumable item that needs replenished or features that serve to detect and eliminate false alert signals that may result in over ordering or an operator having to manually respond and repeatedly deal with the false alert signal. Therefore, LoBiondo does not disclose or suggest the method for keeping consumable items as recited in Claim 17. In light of the above comments, Claim 17 and Claim 20 which depends from Claim 17 are believed to be clearly patentably distinguishing over the cited art and to be allowable.

Addressing now the rejection of Claims 21 and 23 under 35 U.S.C. §103(a) as unpatentable over LoBiondo, that rejection is respectfully traversed.

The consumable item system as in Claim 21 includes a “means for detecting one of a type and a size of the corresponding consumable item needing replenishment,” a “signal detecting means for detecting the signal generated by the signal generating means, and a “counting means for counting a duration of time that said detecting means detects said signal, said time period being adjustably set at the user side.”

The consumable item system as in Claim 21 serves to detect one of a size and type of consumable item needing replenished, as well as detect and eliminate false alert signals that may result in over ordering or an operator having to manually respond and repeatedly deal with a false alert signal. As discussed above, LoBiondo fails to disclose or suggest sensors that detect one of a size and type of a consumable item that needs replenished or features that serve to detect and eliminate false alert signals that may result in over ordering or an operator having to manually respond and repeatedly deal with the false alert signal. Therefore, LoBiondo does not disclose or suggest the consumable item system as recited in Claim 21. In light of the above comments, Claims 21 and 23 which depends from Claim 21 are believed to be clearly patentably distinguishing over the cited art and to be allowable.

Addressing now the rejection of Claim 24 under 35 U.S.C. §103(a) as unpatentable over LoBiondo, that rejection is respectfully traversed. The consumable item system as in amended Claim 24 includes “a counter configured to count a duration of time period that said detector detects said signal, said time period being adjustably set at the user side.” The consumable item system of Claim 24 serves to detect and eliminate false alert signals that may result in over ordering or an operator having to manually respond and repeatedly deal with a false alert signal.

LoBiondo does not disclose or suggest features that serve to detect and eliminate false alert signals that may result in over ordering or an operator having to manually respond and repeatedly deal with the false alert signal. Therefore, LoBiondo does not disclose or suggest

the consumable item system as recited in Claim 24. In view of the present amendment and in light of the above comments, Claim 24 is believed to be clearly patentably distinguishing over the cited art and to be allowable.

Addressing now the rejection of Claim 25 under 35 U.S.C. §103(a) as unpatentable over LoBiondo, that rejection is respectfully traversed. The method for keeping consumable items as in amended Claim 25 includes “counting a duration of time period that the generated signal is detected, said time period being adjustably set at the user side.” The method for keeping consumable items as in Claim 25 serves to detect and eliminate false alert signals that may result in over ordering or an operator having to manually respond and repeatedly deal with a false alert signal.

LoBiondo fails to disclose or suggest a method for keeping consumable items that serves to detect and eliminate false alert signals that may result in over ordering or an operator having to manually respond and repeatedly deal with the false alert signal. Therefore, LoBiondo does not disclose or suggest the method for keeping consumable items as recited in Claim 25. In view of the present amendment and in light of the above comments, Claim 25 is believed to be clearly patentably distinguishing over the cited art and to be allowable.

Addressing now the rejection of Claim 26 under 35 U.S.C. §103(a) as unpatentable over LoBiondo, that rejection is respectfully traversed. The consumable item system as in amended Claim 26 includes a “counting means for counting a duration of time that said detecting means detects said signal, said time period being adjustably set at the user side.” The consumable item system of Claim 26 serves to detect and eliminate false alert signals that may result in over ordering or an operator having to manually respond and repeatedly deal with a false alert signal.

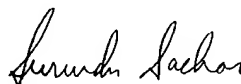
LoBiondo fails to disclose or suggest consumable item system with a counting means that serves to detect and eliminate false alert signals that may result in over ordering or an operator having to manually respond and repeatedly deal with the false alert signal.

Therefore, LoBiondo does not disclose or suggest the consumable item system as recited in Claim 26. In view of the present amendment and in light of the above comments, Claim 26 is believed to be clearly patentably distinguishing over the cited art and to be allowable.

As no other issues are pending in this application, it is respectfully submitted the present application is now in condition for allowance, and it is hereby respectfully requested this case be passed to issue.

Respectfully submitted,

OBLON, SPIVAK, McCLELLAND,
MAIER & NEUSTADT, P.C.



Gregory J. Maier
Attorney of Record
Registration No. 25,599

Customer Number

22850

Tel: (703) 413-3000
Fax: (703) 413 -2220
(OSMMN 08/03)

Surinder Sachar
Registration No. 34,423